

Indiana Department of Education

Division of Special Education

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1816.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	October 19, 2001
DATE OF REPORT:	November 16, 2001
REQUEST FOR RECONSIDERATION:	yes/revision - December 14, 2001
DATE OF CLOSURE:	December 19, 2001

COMPLAINT ISSUES:

Whether the Shelbyville Central Schools and the Blue River Special Education Cooperative violated:

- 511 IAC 7-25-6(a) for allegedly failing to conduct a reevaluation of a student with a disability every 36 months.
- 511 IAC 7-17-72 and 511 IAC 7-27-7(b) for allegedly failing to ensure that the student's teacher of record:
 - a. informed each of the student's teachers of their responsibilities in implementing the student's individualized education program (IEP); and
 - b. ensured that the student's teachers had access to the student's IEP.
- 511 IAC 7-27-7(a) for allegedly failing to implement the student's IEP as written, specifically:
 - a. failing to provide accommodations in the classroom; and
 - b. failing to provide accommodations when the student participates in statewide or local assessments.

FINDINGS OF FACT:

1. The Student is 11 years old, is in 6th grade, and is eligible for special education and related services as a student with Asperger's Syndrome and a communication disorder.
2. A psychological report dated May 1998, found the student eligible for special education as a student with a communication disorder. An independent evaluation, dated September 12, 1998, and discussed at the October 14, 1998, CCC meeting, found the Student eligible for special education as a student with Asperger's Syndrome. The CCC Report dated October 14, 1998, documents the next re-evaluation date as October 2001. The Student's triennial re-evaluation occurred on August 29, 2001.
3. The TOR states that before school began on August 15, 2001, the Student's teachers received written notification of the Student's placement in their general education classrooms. The special education records are kept in the school safe in the office, and all teachers have access to those records.
4. A copy of the Student's goals and accommodations were given to the Student's teachers and discussed at the team meeting on August 20, 2001.

5. The Complainant stated that accommodations listed on the Student's IEP dated February 12, 2001, were not implemented during the ISTEP. The February 12, 2001, IEP included the following accommodations for standardized testing: the student is tested in a small group setting, and has directions read to him or her. The TOR stated that the Student was tested in the general education classroom with 20-21 other students.
6. The Complainant stated that the "bubbling accommodation" was checked on the January 24, 2000, IEP, but was inadvertently not checked on the February 12, 2001, IEP. The Complainant signed the February 12, 2001, IEP. The Student "bubbled" the test answers on this year's test.
7. The IEP dated February 12, 2001, contained several accommodations, including: preferential seating, reduced assignments, and reduce/modify test format. The complainant stated that the Student is given the same assignments as the rest of the class based on information from the Homework Hotline. Although the complainant asserts the Student's tests are to be formatted according to the "study guide format," the IEP dated February 12, 2001, does not specifically mention "study guide format for tests". The Complainant also reported, on occasion, that she has noticed the Student sitting in the back of classrooms. The IEP does not define preferential seating, but the Director states that in one classroom the Student sits in the middle of the class because the teacher moves around the classroom while teaching.
8. The TOR and the Director stated that the teachers indicated that preferential seating, and modified tests are being implemented. For some reduced assignments, the Student has the choice of formats "odds or evens", but usually completes the entire assignment.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School conducted an initial education evaluation in May 1998, and the CCC determined the Student eligible for special education. In October 1998, the CCC reviewed a subsequent independent evaluation and identified a second disability category under which the Student qualified. The triennial evaluation was due to be conducted no later than 36 months from the CCC's October 14, 1998, determination of a secondary disability. The evaluation was conducted in August 2001. Therefore, no violation of 511 IAC 7-25-6(a) is found.
2. Findings of Fact #3 and #4 indicate that the TOR notified the teachers on August 15, 2001, that the Student would be enrolled in their general education classes. On August 20, 2001, at the team meeting, the Student's teachers discussed the Student's goals and accommodations. The teachers all had access to the Student's IEP. Therefore, no violation of 511 IAC 7-17-72 or 511 IAC 7-27-7(b) is found.
3. Findings of Fact #5 and #6 establish that accommodations for standardized testing were listed on the IEP, including allowing the Student to be tested in a small group. The student was tested in the general education classroom with approximately 20 other students. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to standardized testing accommodations.
4. Findings of Fact #7 and #8 indicate that accommodations listed in the February 12, 2001, IEP are being implemented in the Student's general education classrooms. Therefore, no violation of 511 IAC 7-27-7(a) is found with respect to classroom accommodations.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Shelbyville Central Schools and the Blue River Special education Cooperative shall:

1. The previously identified corrective action of an assurance statement regarding the timeliness of triennial reevaluations is rescinded.
2. send a memorandum to all TORs and principals reminding them that all accommodations written on a student's IEP for standardized testing are to be implemented as written. **A copy of the memorandum and a list of recipients shall be submitted to the division no later than December 14, 2001.**